

Senate Bill No. 1065

Passed the Senate May 31, 2001

Secretary of the Senate

Passed the Assembly August 20, 2001

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2001, at _____ o'clock __M.

Private Secretary of the Governor

└

CHAPTER _____

An act to amend Section 5403 of the Business and Professions Code, and to amend Section 730.5 of the Streets and Highways Code, relating to highways.

LEGISLATIVE COUNSEL'S DIGEST

SB 1065, Perata. Highways: trees and shrubs.

(1) The Outdoor Advertising Act prohibits an advertising display from being placed or maintained in certain conditions. A violation of these provisions is grounds for the removal of the display and is a crime.

This bill would make it a violation of that act for the owner of a display or anyone acting on the owner's behalf to remove, cut, cut down, injure, or destroy, without a permit issued by the department any tree, shrub, plant, or flower growing on property owned by the Department of Transportation if that conduct is undertaken in order to enhance the display's visibility, thereby creating grounds for the removal of the display. Because this would also expand the scope of an existing crime, the bill would impose a state-mandated local program.

(2) Existing law provides a penalty of \$100 for each tree damaged on any state highway and allows for the collection of the costs and expenses incurred in a court action brought against a person who willfully and maliciously digs up, cuts down, destroys, or otherwise injures any shade or ornamental tree on any state highway.

This bill would recast this provision by additionally prohibiting a person from pruning or trimming any tree or shrub on any state highway without a permit issued by the department. The bill would increase the penalty as to a damaged tree to \$10,000 and to \$1,000 as to a damaged shrub; and the bill would allow the department to recover attorney and expert witness fees and the amount of actual damages to any tree or shrub.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.



This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 5403 of the Business and Professions Code is amended to read:

5403. No advertising display shall be placed or maintained in any of the following locations or positions or under any of the following conditions or if the advertising structure or sign is of the following nature:

- (a) If within the right-of-way of any highway.
- (b) If visible from any highway and simulating or imitating any directional, warning, danger or information sign permitted under the provisions of this chapter, or if likely to be mistaken for any permitted sign, or if intended or likely to be construed as giving warning to traffic, by, for example, the use of the words “stop” or “slow down.”
- (c) If within any stream or drainage channel or below the floodwater level of any stream or drainage channel where the advertising display might be deluged by flood waters and swept under any highway structure crossing the stream or drainage channel or against the supports of the highway structure.
- (d) If not maintained in safe condition.
- (e) If visible from any highway and displaying any red or blinking or intermittent light likely to be mistaken for a warning or danger signal.
- (f) If visible from any highway which is a part of the interstate or primary systems, and which is placed upon trees, or painted or drawn upon rocks or other natural features.
- (g) If any illumination shall impair the vision of travelers on adjacent highways. Illuminations shall be considered vision impairing when its brilliance exceeds the values set forth in Section 21466.5 of the Vehicle Code.
- (h) If visible from a state regulated highway displaying any flashing, intermittent, or moving light or lights.
- (i) If, in order to enhance the display’s visibility, the owner of the display or anyone acting on the owner’s behalf removes, cuts, cuts down, injures, or destroys any tree, shrub, plant, or flower growing on property owned by the department that is visible from



the highway without a permit issued pursuant to Section 670 of the Streets and Highways Code.

SEC. 2. Section 730.5 of the Streets and Highways Code is amended to read:

730.5. Any person who by any means, without a permit issued by the department, digs up, cuts down, destroys, prunes, trims, or otherwise injures any tree or shrub on any state highway, rights-of-way, or property shall be liable to a penalty in the sum of ten thousand dollars (\$10,000) for each tree so damaged and one thousand dollars (\$1,000) for each shrub so damaged; and the department, in the name of the people of the State of California, may recover the penalty in an action at law, in a court of competent jurisdiction, together with the costs and expenses, including attorney and expert fees, incurred in the action and the actual costs incurred because of the damage to any tree or shrub on state property.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 2001

Governor

